

In The Court Of Appeal Of The State Of California 21  
Sixth Appellate District  
San Jose, California

MONDAY, FEBRUARY 4, 2002

H021933 CROOK, as Trustee, etc. v. CONTRERAS

H021934 Estate of KOUBA

We dismiss Contreras's purported appeal from the trial court's determination that Crook's actions were not "contests" to Florence's will. We affirm the trial court's orders denying admissions of the 1998 documents to probate as codicils and determining that those documents were not valid trust amendments. (published)

(Mihara, J.; We concur: Premo, Acting P.J., Elia, J.)

Filed February 4, 2002

H021484 RUSSEL, et al. v. REILLY, et al.

The judgment is affirmed. (not published)

(Premo, Acting P.J.; We concur: Elia, J., Mihara, J.)

Filed February 4, 2002

H022143 HOUCHIN v. LESHER, et al.

The judgment is affirmed. (not published)

(Premo, Acting P.J.; We concur: Elia, J., Mihara, J.)

Filed February 4, 2002

TUESDAY, FEBRUARY 5, 2002

H021897 ALVES, et al. v. COUNTY OF SANTA CLARA, et al.

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Premo, Acting P.J., Elia, J.)

Filed February 5, 2002

H021229 MACKLIN v. CITY OF SANTA CRUZ

The judgment is reversed. Costs are awarded to the City. The motion for sanctions is denied. (not published)

(Mihara, J.; We concur: Premo, Acting P.J., Elia, J.)

Filed February 5, 2002

In The Court Of Appeal Of The State Of California      22  
Sixth Appellate District  
San Jose, California

Tuesday, February 5, 2002 (continued)

H021384 PEOPLE v. ESPINOZA

H022532 IN RE ESPINOZA ON HABEAS CORPUS

The judgment is hereby modified in the following particulars. The Penal Code section 288, subdivision (b) conviction shall be modified to reflect a conviction of the lesser included offense of violating Penal Code section 288, subdivision (a) due to the insufficiency of the evidence of duress. The attempted rape conviction is stricken due to the insufficiency of the evidence of duress. The trial court is ordered to prepare an amended abstract of judgment reflecting these modifications and to forward a copy of this abstract to the Department of Corrections. The modified judgment is affirmed. The petition for a writ of habeas corpus is summarily denied. (published)

(Mihara, J.; We concur: Premo, Acting P.J., Elia, J.)

Filed February 5, 2002

H022073 PEOPLE v. MITCHELL

The judgment is affirmed. (not published)

(O'Farrell, J.\*; We concur: Bamattre-Manoukian, Acting P.J., Wunderlich, J.)

Filed February 5, 2002

\*Judge of the Monterey Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

H021975 LISTMAN v. LISTMAN

The July 10, 2000 judgment is affirmed. The October 4, 2000 order after judgment awarding attorney's fees is reversed. The parties shall bear their own costs on appeal. (not published)

(O'Farrell, J.\*; We concur: Bamattre-Manoukian, Acting P.J., Wunderlich, J.)

Filed February 5, 2002

\*Judge of the Monterey Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

In The Court Of Appeal Of The State Of California 23  
Sixth Appellate District  
San Jose, California

Tuesday, February 5, 2002 (continued)

H022642 PEOPLE v. MUHAMMED C.

By the Court:

The written opinion which was filed on January 7, 2002 is certified for publication. (Premo, Acting P.J.; Elia, J., Mihara, J.)

The written opinion which was filed on January 7, 2002 has now been certified for publication pursuant to rule 976(b) of the California Rules of Court, and it is therefore ordered that it be published in the Official Reports.

Dated: February 5, 2002 Premo, Acting P.J.

WEDNESDAY, FEBRUARY 6, 2002

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Premo, Acting P.J.; Elia, J.; Mihara, J.; and S. Nasson, Deputy Clerk.

H022765 PEOPLE v. DAYMON S., a minor

Cause called and argued by Eric Liberman appearing for Appellant and by Margo Yu, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H023102 PEOPLE v. JOSE G., a minor

Cause called and argued by Eric Liberman appearing for Appellant and by Gerald Engler, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H021997 PEREIRA v. BANK OF AMERICA, NT&SA

Cause called and argued by Robert Ponce appearing for Appellant and by Patricia Gillette appearing for Respondent. Cause ordered submitted.

H021841 MARRIAGE OF AN

Cause called and argued by Ronjane An, Appellant appearing in propria persona and by Ko-Cheng An, Respondent appearing in propria persona. Cause ordered submitted. Court is in recess.

In The Court Of Appeal Of The State Of California 24  
Sixth Appellate District  
San Jose, California

Wednesday, February 6, 2002 (continued)

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Premo, Acting P.J.; Elia, J.; Mihara, J.; and W. Magsaysay, Deputy Clerk.

H021573 PEOPLE v. KADJEVICH

H022286 PEOPLE v. KADJEVICH

Cause called and argued by Jeffrey A. Glick appearing for Appellant and by Laurence K. Sullivan, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H022116 PEOPLE v. LOPEZ

Cause called and argued by Tania Rose appearing for Appellant and by Eric D. Share, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H021857 CENTURY INDEMNITY COMPANY v. CANNERY ROW PLAZA ASSOCIATES

Cause called and argued by Brandt L. Wolkin appearing for Appellant and by Harold M. Jaffe appearing for Respondents. Cause ordered submitted.

H022092 CONSTRUCTION DEVELOPMENT SERVICES, et al. v. CITY OF MONTE SERENO; LOMA SERENA IMPROVEMENT

Cause called and argued by Kristen Powell appearing for Appellant City of Monte Sereno, by Mark B. Fredkin appearing for Appellant Loma Serena Improvement and by James R. Hawley appearing for Respondents. Cause ordered submitted.

H021754 SALYER, as Trustee, etc. v. SALYER AMERICAN FRESH FOODS, INC.; SALYER, et al.

Cause called and argued by Russell J. Hanlon appearing for Appellants and by Dennis M. Law appearing for Respondent. Cause ordered submitted. Court adjourns.

In The Court Of Appeal Of The State Of California 25  
Sixth Appellate District  
San Jose, California

Wednesday, February 6, 2002 (continued)

H023367 DFCS v. MICHELLE S.

The juvenile court's order of May 10, 2001, regarding visitation is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., O'Farrell, J.\*)

Filed February 6, 2002

\*Judge of the Monterey Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

H021606 PEOPLE v. NGUYEN

The judgment is affirmed. (not published)

(Elia, J.; We concur: Premo, Acting P.J., Mihara, J.)

Filed February 6, 2002

THURSDAY, FEBRUARY 7, 2002

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P. J.; Wunderlich, J.; O'Farrell, J.\*; and R.W. Norvelle, Deputy Clerk.

\*Judge of the Monterey Superior Court assigned by the Chief Justice pursuant to Article VI, Section 6 of the California Constitution.

H021715 PEOPLE v. SCHROEDER

Cause called and argued by Dennis Lempert appearing for Appellant and by Christina Kuo, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H021786 In re Marriage of NARAYANSWAMI

Cause called and argued by Robin Yeamans appearing for Appellant and by Paul E. Jacobs and Bernard N. Wolf appearing for Respondent. Cause ordered submitted.

Wunderlich, J. leaves the bench and Mihara, J. takes the bench.

H023366 In re VINCENT S.

Cause called and argued by Carole Greeley appearing for Appellant, by Teri L. Robinson, Deputy County Counsel, appearing for Respondent and by Robert J. Masterson, Deputy District Attorney, appearing for Respondent minor. Cause ordered submitted.

In The Court Of Appeal Of The State Of California 26  
Sixth Appellate District  
San Jose, California

Thursday, February 7, 2002 (continued)

H021435 LOPEZ v. CITY OF MILPITAS FIRE DEPARTMENT, et al.

Cause called and argued by Helen Jennings appearing for Appellant, by Andrea J. Saltzman appearing for Respondent City of Milpitas and by Christina C. Beuler appearing for Respondent Milpitas Firefighters Association. Cause ordered submitted.

Mihara, J. leaves the bench and Elia, J. takes the bench.

H022242 CHAE v. ASIAN AMERICANS FOR COMMUNITY INVOLVEMENT OF SANTA CLARA COUNTY, INC.

Cause called and argued by John McBride appearing for Appellant and by David J. Murphy appearing for Respondent. Cause ordered submitted. Court recesses.

H023079 PEOPLE v. BRIAN G.

The judgment is reversed. (not published)  
(Premo, Acting P.J.; We concur: Elia, J., Wunderlich, J.)  
Filed February 7, 2002

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California.  
Present: Bamattre-Manoukian, Acting P.J.; Wunderlich, J.; O'Farrell, J.\*; and Judy Benitez, Deputy Clerk.  
\*Judge of the Monterey Superior Court assigned by the Chief Justice pursuant to Article VI, Section 6 of the California Constitution.

H021352 PEOPLE v. O'KEEFE

Cause called and argued by Lyn Woodward appearing for Appellant and by Seth Schalit, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H021604 PEOPLE v. LEDESMA

Cause called and argued by Brian A. Pori appearing for Appellant and by Stan Helfman, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H021813 PEOPLE v. ESCUE

Cause called and argued by Allan Ernest Junker appearing for Appellant and by Stan Helfman, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

In The Court Of Appeal Of The State Of California 27  
Sixth Appellate District  
San Jose, California

Thursday, February 7, 2002 (continued)

H020743 PEOPLE v. FRYMAN

Cause called and argued by Marylou Hillberg appearing for Appellant and by Morris Lenk, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H020031 PEOPLE v. SMITH

Cause called and argued by Dennis Riordan appearing for Appellant and by Jeffrey M. Laurence, Deputy Attorney General, appearing for Respondent. Cause ordered submitted. Court adjourns.

H023306 PEOPLE v. JEFFREY V.

The juvenile court's commitment order hereby modified to reflect that the juvenile court imposed a stayed 12 month commitment for the battery count and a two-month, rather than four-month, commitment for the prior indecent exposure count. The juvenile court shall file an amended commitment order reflecting these modifications and forward a copy of the amended order to the California Youth Authority. As so modified, the order is affirmed. (not published)  
(Premo, Acting P.J.; We concur: Elia, J., Wunderlich, J.)  
Filed February 7, 2002

H022328 PEOPLE v. TINA G.

The judgment is reversed. The matter is remanded to the juvenile court to make an express declaration pursuant to Welfare and Institutions Code section 702 as to whether it finds the threat offense to be a misdemeanor or a felony. The court shall file an amended commitment order reflecting its determination and forward a copy to the California Youth Authority. (not published)  
(Premo, Acting P.J.; We concur: Elia, J., Wunderlich, J.)  
Filed February 7, 2002

H021944 JONES v. CARMEL UNIFIED SCHOOL DISTRICT

The order granting a new trial shall be vacated. The judgment notwithstanding the verdict is reversed and the trial court is directed to reinstate the judgment on the verdict. Plaintiff shall have his costs on appeal. (not published)  
(Premo, Acting P.J.; We concur: Elia, J., Mihara, J.)  
Filed February 7, 2002

In The Court Of Appeal Of The State Of California 28  
Sixth Appellate District  
San Jose, California

FRIDAY, FEBRUARY 8, 2002

H022660 IN RE MARCEL W., A MINOR

The judgment of wardship is modified to reduce the felony finding for count two to a misdemeanor finding. As so modified, the judgment is affirmed. (not published)  
(Premo, Acting P.J.; We concur: Elia, J., Wunderlich, J.)  
Filed February 8, 2002

H021711 PEOPLE v. ALCALA

The judgment is affirmed. (not published)  
(O'Farrell, J.\*; We concur: Bamattre-Manoukian, Acting P.J., Wunderlich, J.)  
Filed February 8, 2002  
\*Judge of the Monterey Superior Court assigned by the Chief Justice pursuant to Article VI, Section 6 of the California Constitution.

H020549 FIREMAN'S INSURANCE COMPANY OF NEWARK, NEW JERSEY v. JOHNSON; MONTGOMERY

The judgment is affirmed. Appellant shall bear costs on appeal. (not published)  
(O'Farrell, J.\*; We concur: Bamattre-Manoukian, Acting P.J., Wunderlich, J.)  
Filed February 8, 2002  
\*Judge of the Monterey Superior Court assigned by the Chief Justice pursuant to Article VI, Section 6 of the California Constitution.

H022982 PEOPLE v. JOHN R.

The jurisdictional and dispositional orders are affirmed. (not published)  
(O'Farrell, J.\*; We concur: Bamattre-Manoukian, Acting P.J., Wunderlich, J.)  
Filed February 8, 2002  
\*Judge of the Monterey Superior Court assigned by the Chief Justice pursuant to Article VI, Section 6 of the California Constitution.

H022153 PEOPLE v. PHAN

We modify the judgment by striking the section 666 charge. As modified, the judgment is affirmed. (not published)  
(Mihara, J.; We concur: Premo, Acting P.J., Elia, J.)  
Filed February 8, 2002



Sixth Appellate District

San Jose, California

Friday, February 08, 2002 (continued)

H022645 PEOPLE v. GRANITE STATE INSURANCE COMPANY

The order is affirmed. (not published)

(Mihara, J.; We concur: Premo, Acting P.J., Elia, J.)

Filed February 8, 2002